

RECEIVED

MAY - 5 1995

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 2.106 of the) ET Docket No. 95-18
Commission's Rules to Allocate) RM-7927
Spectrum at 2 GHz for Use)
by the Mobile-Satellite Service)

DOCKET FILE COPY ORIGINAL

To: The Commission

COMMENTS OF THE ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads ("AAR"), by its undersigned counsel, hereby responds to the invitation for comments issued by the Commission in the Notice of Proposed Rule Making in the above-captioned proceeding, released January 31, 1995 (hereinafter "Notice").

I. BACKGROUND AND PRELIMINARY STATEMENT

AAR is a voluntary non-profit organization composed of railroad companies operating in the United States, Canada and Mexico. The AAR is the joint representative and agent of these railroads in connection with federal regulatory matters of common concern to the industry as a whole, including matters pertaining to the regulation of communications. In addition, AAR functions as the frequency coordinator with respect to the operation of land mobile and other radio-based services.

The U.S. railroad industry deploys and depends on a sophisticated and comprehensive interrelated radio communications network consisting of both mobile and fixed point-to-point communications systems and facilities. The railroads use private

No. of Copies rec'd
List ABCDE

249

fixed microwave systems that operate on frequencies in the 2 GHz band to meet safety and reliability requirements in their day-to-day operations. Private microwave facilities are used to monitor and control more than 1.2 million freight cars on more than 215,000 miles of track. For example, microwave systems carry information regarding train signals and the remote switching of tracks and routing of trains that are necessary for the safe operation of trains on rights-of-way and through depots and freight yards. These systems also relay critical telemetry data from trackside defect detectors located throughout the rail network. Information about damaged rails, overheated wheel bearings, dragging equipment, rock slides and the like is automatically transmitted from these detectors via mobile radio links to engineers in trains, who can then take the necessary actions to prevent derailments, and via fixed microwave links to dispatchers in distant locations, who are required to know the status of the equipment along the routes for which they are responsible. Microwave systems also are vital to coordination of operations between and among the different railroads. AAR is interested in this proceeding because it will result in the relocation of railroad private fixed microwave facilities from the 2130-2145 and 2165-2200 MHz bands.

II. THE COMMISSION IS CORRECT IN APPLYING ITS INVOLUNTARY RELOCATION POLICY TO THE CURRENT PROCEEDING

By this Notice the Commission has proposed to allocate the 1990-2025 MHz and the 2165-2200 MHz to the mobile-satellite

service (MSS). Because the Broadcast Auxiliary Service ("BAS") currently uses the 1990-2010 MHz band, the Commission proposed to relocate that service to the 2110-2145 MHz band. In turn, because the 2110-2145 MHz band is currently occupied by the common carrier and private fixed microwave users and because sharing of the band with BAS is not feasible, it will be necessary to relocate the fixed microwave users. The fixed microwave users will also face relocation from the 2165-2200 MHz band in order to accommodate MSS.

The Commission has proposed to apply its involuntary relocation rules to the spectrum addressed in the Notice. Specifically, the Commission proposed that:

- All relocation expenses must be paid entirely by the displacing MSS provider;
- Relocation facilities must be fully comparable to those being replaced;
- The displacing MSS provider must complete before relocation all activities necessary for placing the new facilities into operation, including engineering and frequency coordination;
- The displacing MSS provider must fully build and test the new communications system before the relocation should commence;
- Should the new facilities, within one year, prove not to be equivalent in every respect to the relocated facilities, the displacing MSS provider must pay to move the relocated operation to its original facilities until complete equivalency is attained.^{1/}

^{1/} Notice at 6.

These proposed transition rules are in accord with the requirements established by the Commission for providers of Personal Communications Services ("PCS") in its emerging technologies proceedings.^{2/} In addition to requiring the new entrants to bear the costs of the relocation and ensure comparable facilities, the existing rules also specify a transition period during which the incumbent users shall maintain primary status in their bands and negotiations regarding relocation may take place.^{3/} Although the Commission did not specifically refer to such a transition period in the Notice, AAR believes the same transition period should apply to the relocation of the incumbent users from the 1990-2025 and the 2165-2200 MHz bands.

When it crafted the relocation rules to accommodate the entry of PCS providers into the band, the Commission recognized the "important and vital services currently being provided by the

2/ See, Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, First Report and Order and Third Notice of Proposed Rule Making, 7 FCC Rcd 6886, 6890 (1992), Second Report and Order, 8 FCC Rcd 6495 (1993); Third Report and Order and Memorandum Opinion and Order, 8 FCC Rcd 6589 (1993). The relevant regulations are 47 C.F.R. § 21.50 for relocation of common carrier users and 47 C.F.R. § 94.59 for relocation of the private fixed microwave users.

3/ Section 94.59(b) states that the incumbent private users will "maintain primary status in these bands until two years after the Commission commences acceptance of applications for an emerging technology service (two year voluntary negotiation period), and until one year after an emerging technology service licensee initiates negotiations for relocation of the fixed microwave licensee's operations (one year mandatory negotiation period)."

2 GHz fixed microwave facilities" and set forth two objectives with regard to the relocation rules: (1) to "prevent disruption of existing 2 GHz services," and (2) to "minimize the economic impact on the licensees of those services."^{4/} The Commission's recognition of the vital services provided by the fixed microwave facilities in the 2 GHz band is just as valid for MSS entry into the band as it was for PCS entry into the band. Because there is no reason to distinguish between use of the band by PCS and MSS in this regard, the same two objectives are relevant in the case of MSS use of the band. Hence, the same relocation rules should apply.

III. CONCLUSION

For the reasons set out above, AAR fully supports the Commission's proposal to apply its existing 2 GHz relocation rules to the proposed use of the band by MSS providers.

Respectfully submitted,

ASSOCIATION OF AMERICAN RAILROADS

By: 

Thomas J. Keller
Sari Zimmerman

Verner, Liipfert, Bernhard,
McPherson and Hand, Chartered

901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
(202) 371-6060

Dated: May 5, 1995

Its Attorneys

^{4/} First Report and Order, supra, 7 FCC Rcd at 6886.

CERTIFICATE OF SERVICE

I, Beverly J. Magnone, hereby certify that on this 5th day of May, 1995, copies of the foregoing "Comments of the Association of American Railroads" were mailed, postage prepaid, to the following:

Scott Blake Harris, Esq.
Bureau Chief
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Washington, D.C. 20554

Tom Tycz
Division Chief
Satellite & Radio Communication Division
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Washington, D.C. 20554

Regina Keeney, Esq., Chief
Wireless Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

William E. Kennard, Esq.
General Counsel
Federal Communications Commission
1919 M Street, N.W., Room 614
Washington, D.C. 20554

Ralph A. Haller
Wireless Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Robert McNamara
Wireless Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5322
Washington, D.C. 20554

Cecily Holiday
Deputy Division Chief
Satellite & Radio Communication Division
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Washington, D.C. 20554

William Luther
Branch Chief
Radiocommunication Policy Branch
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Washington, D.C. 20554

Thomas Walsh
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Washington, D.C. 20554

Richard Parlow
Associate Administrator for
Spectrum Management
National Telecommunications and
Information Administration
U.S. Department of Commerce
14th & Constitution Avenue., N.W.
Washington, D.C. 20230

International Transcription Service, Inc.
2100 M Street, N.W.
Suite 150
Washington, D.C. 20037


Beverly J. Magnone